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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,750	02/20/2004	Torin Moore		3708

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12/12/2005

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EXAMINER

HOEY, ALISSA L

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/781,750

Applicant(s)

MOORE, TORIN

Examiner

Alissa L. Hoey

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: in line 4 should “a” be inserted before “first arm”? Appropriate correction is required.
2. Claim 1 is objected to because of the following informalities: in line 5 should “a” be inserted before “second arm”? Appropriate correction is required.
3. Claim 1 is objected to because of the following informalities: in line 7 should “being” be inserted before “attached to”? Appropriate correction is required.
4. Claim 1 is objected to because of the following informalities: in line 7 should “opening read “openings”? Appropriate correction is required.
5. Claim 1 is objected to because of the following informalities: in line 10 should “with zipper” read “having zipper handles”? Appropriate correction is required.
6. Claim 1 is objected to because of the following informalities: in line 11 should “having the second color” read “having a second color”? Appropriate correction is required.
7. Claim 1 is objected to because of the following informalities: in lines 11-12 should “second color, provide” read “second color and providing”? Appropriate correction is required.
8. Claim 1 is objected to because of the following informalities: in line 13 should “short sleeve portion” read “short sleeve portions”? Appropriate correction is required.
9. Claim 2 is objected to because of the following informalities: in line 2 should “zipper” read “zippers”? Appropriate correction is required.

10. Claim 2 is objected to because of the following informalities: in line 3 should "of sleeve zipper" read "of the sleeve zippers"? Appropriate correction is required.
11. Claim 2 is objected to because of the following informalities: in line 4 should "of sleeve zipper" read "of the sleeve zippers"? Appropriate correction is required.
12. Claim 3 is objected to because of the following informalities: in line 4 should "a" be inserted before "first arm opening"? Appropriate correction is required.
13. Claim 3 is objected to because of the following informalities: in line 4 should "a" be inserted before "second arm opening"? Appropriate correction is required.
14. Claim 3 is objected to because of the following informalities: in line 5 should "a" be inserted before "head opening"? Appropriate correction is required.
15. Claim 3 is objected to because of the following informalities: in line 7 should "opening" read "openings"? Appropriate correction is required.
16. Claim 3 is objected to because of the following informalities: in line 9 should "includes" read "include"? Appropriate correction is required.
17. Claim 3 is objected to because of the following informalities: in line 10 should "strip" read "strips". Appropriate correction is required.
18. Claim 3 is objected to because of the following informalities: in line 12 should "strip" read "strips"? Appropriate correction is required.
19. Claim 3 is objected to because of the following informalities: in line 12 should "conform" read "conforms"? Appropriate correction is required.
20. Claim 3 is objected to because of the following informalities: in line 12 should "contour" read "contours". Appropriate correction is required.

21. Claim 3 is objected to because of the following informalities: in line 13 should "color, provide" read "color and provide"? Appropriate correction is required.

22. Claim 4 is objected to because of the following informalities: in line 1 should "strip" read "strips"? Appropriate correction is required.

23. Claim 4 is objected to because of the following informalities: in line 2 should "color, is positioned at edge" read "color, are positioned at an edge"? Appropriate correction is required.

24. Claim 4 is objected to because of the following informalities: in line 2 should "opening" read "openings"? Appropriate correction is required.

25. Claim 4 is objected to because of the following informalities: in line 3 should "strip" read "strips"? Appropriate correction is required.

26. Claim 4 is objected to because of the following informalities: in line 4 should "conforms" read "conform"? Appropriate correction is required.

27. Claim 4 is objected to because of the following informalities: in line 4 should "contour" read "contours"? Appropriate correction is required.

28. Claim 4 is objected to because of the following informalities: in line 4 should "sleeve" read "sleeves"? Appropriate correction is required.

29. Claim 4 is objected to because of the following informalities: in line 5 should "strip" read "strips"? Appropriate correction is required.

30. Claim 4 is objected to because of the following informalities: in line 5 should "to second" read "to the second"? Appropriate correction is required.

31. Claim 4 is objected to because of the following informalities: in line 6 should "strip" read "strips"? Appropriate correction is required.

32. Claim 4 is objected to because of the following informalities: in line 6 should "seam" read "seams". Appropriate correction is required.

Claim Rejections - 35 USC § 112

33. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3 and 4 contains the trademark/trade name Velcro. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe hook and loop fasteners and, accordingly, the identification/description is indefinite.

Claim Rejections - 35 USC § 103

34. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

35. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chung (5,628,064) in view of Boshoff (US 5,781,930).

In regard to claim 1 Chung teaches an interchangeable garment (figures 2 and 3) that is capable of being worn during baseball as a jersey. The garment inherently having a first color, a front portion with a front opening, a rear portion, a bottom portion, a top portion and a first side with a first arm opening having a short sleeve (22, 23) and a second side with a second arm opening having a short sleeve (figures 2 and 3). A pair of sleeve zippers (202, 207) having a color with a first half and a second half (figure 3, identifiers 202, 209). The first half is attached to and arranged around the first and second arm openings of the jersey (figures 2 and 3). A pair of long sleeves (24, 25) having a first color and include upper arm openings and lower arm openings for receiving the wearer's arm there through (24, 25). The second half of the zipper is arranged around the arm openings of the long sleeves (figures 2 and 3). The lower arm openings of the long sleeves having cuffs (24, 25). An overlapping of jersey material having a color and concealing the sleeve zippers (figures 2 and 3). The overlaps are attached to and arranged around the first and second arm openings (figures 2 and 3).

However, Chung fails to teach pocket enclosures having zippers for opening and closing the pocket enclosures. The zippers are hemmed into the side of the garment along the seam connecting the front panel to the back panel. The appearance of the zipper is lessened due to it's location along the side seam of the garment. The enclosures are longer in length than the zipper enclosure openings so as to store the sleeves without having to fold them. The enclosures are sewn vertically along the inside

of the jersey beneath the first and second arm openings. The enclosures are capable of compressing the long sleeves with the zipper so as to keep the sleeves from bunching up and becoming wrinkled.

Boshoff teaches pocket enclosures (30) having zippers (32) for opening and closing the pocket enclosures (30). The zippers are hemmed into the side of the garment and are inherently located along the seam connecting the front panel to the back panel (see figures 3 and 4). The appearance of the zipper is lessened due to its location along the side seam of the garment (figures 3-6). The enclosures are longer in length than the zipper enclosure openings so as to be capable of storing the long sleeves without having to fold them (column 4, lines 20-27: figure 3). The enclosures (30) are sewn vertically along the inside of the jersey beneath the first and second arm openings (column 4, lines 20-27). The enclosures are capable of compressing the long sleeves with the zipper so as to keep the sleeves from bunching up and becoming wrinkled. Further, Boshoff teaches elastic cuffs at the ends of the sleeve (24).

It would have been further obvious to have provided the zippers with a zipper handle, since a zipper handle is required in a zipper fastening system. The half of the zipper that the handles is located on can be chosen by one having ordinary skill in the art as desired. As long as two halves of a zipper and a zipper handle are present the particular configuration does not effect the ability of the zipper to fasten.

In regard to claim 2, it would have been obvious for the sleeve zippers to include a first end and a second end with the first en and the second end of the zipper starting and ending at the underarm area of the garment because the all zippers need a starting

and stopping point and the underarm area would conceal the zipper starting and stopping points from view by an onlooker. Further, it would have been obvious that if the zipper extending around the sleeve and hit it's starting and stopping points under the underarm it would have also been obvious to have placed the started and stopping points located on the sides of the vertical side seam, since the vertical side seam would be the middle location of the underarm area and a good placement for the zipper starting the stropping points.

In regard to claim 3, Chung and Boshoff teach an interchangeable garment system as described above in this office action. It would have been obvious that the garment of Chung could have been worn during basketball as a jersey. Further, Chung teaches the sleeve attachment portions being zipper fasteners or hook and loop fasteners as descried by based upon end use (column 1, lines 16-25).

In regard to claim 4, Chung teaches the hook and loop strips having a color and being positioned at the edge of the first and second arm openings of the jersey giving the appearance of jersey trim (column 1, lines 16-25). The hook and loop strips inherently conform to the garment contours so as to give the appearance of a shoulder seam.

In regard to claim 5, Chung teaches the long sleeves having cuffs (figures 2 and 3).

It would have been obvious to have provided the colors of any portion of the garment in any color as desired and chosen by an artisan having ordinary skill in the art based upon end use of the garment. As long as the garment has all the structural

limitations as set forth in the claim the colors can be any and the garment would still function in the same manner as disclosed in applicant's specification. The color differences between the sleeves, zippers and cuffs can be chosen from any color as desired.

It would have been obvious to have provided the interchangeable garment of Chung with the zippered side pockets of Boshoff, since the garment of Chung provided with side pockets would provide a hidden pocket system to store parts of the garment when they are not being worn externally on the garment.

Conclusion

36. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Millhauser, Shuster, Pearson, Cuttler, Merkent, Shuster, Rosenberg, Fierst, Marthinsson, Jones, Spitz, Maeshima, Grilliot et al., Heller, Rose, Hugh and Blanks are all cited to show closely related garment articles.

37. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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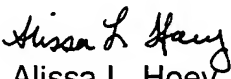
Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3765

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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